



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
OFFICE OF JUSTICE SERVICES  
Washington, DC 20240

IN REPLY REFER TO:

JUL 08 2019

BIA-2019-01026

MuckRock News  
Emma Best  
Dept. MR 74165  
411A Highland Ave.  
Somerville, MA 02144-2516  
[74165-98711376@requests.muckrock.com](mailto:74165-98711376@requests.muckrock.com)

Dear Ms. Best:

The Bureau of Indian Affairs (BIA), Office of Justice Services (OJS), FOIA office received your Freedom of Information Act (FOIA) request, dated April 16, 2019, on May 14, 2019 and assigned a control number BIA-2019-01026. Please cite this number in any future communications with our office regarding your request. You describe the records you seek as:

*Copies of documents, including but not limited to emails, memos, letters, reports, briefs and call logs, referring to, discussing or generated as a result of referrals to and consultations with the Federal Bureau of Investigation and other components of the Department of Justice (Criminal Division, Civil Division, National Security Division, the Attorney General's office, etc.), regarding instances of unauthorized disclosures of information (AKA leaks) for investigation and/or prosecution between January 20, 1981 (or the date of creation of this agency, whichever came first) and the present.*

With respect to your request:

## **Scope of Request Unclear—43 C.F.R. § 2.5**

The FOIA requires that requests describe the records sought with sufficient detail for an agency employee familiar with the subject area of the request to locate the records with a reasonable amount of effort. Your request of “*Copies of documents, including but not limited....discussing or generated as a result of referrals to and consultations with the Federal Bureau of Investigations...regarding instances of unauthorized disclosures of information (aka leaks)*”, does not adequately describe a record. The FOIA does not require agencies to create new records or to conduct research, analyze data, or answer questions when responding to requests. You must identify a particular record that an individual can reasonably look for with minimal effort.

According to our regulations, if we do not receive your written response clarifying what records you know exist within 20 workdays from the date of this letter, we will presume that you are no longer interested in pursuing your request, we will not be able to comply with your request and we will close our file on it. See 43 C.F.R §.2.37(g).

### **Acknowledgment—Other Use Request**

We have classified you as an “other-use” requester. As such, we may charge you for some of our search and duplication costs, but we will not charge you for our review costs; you are also entitled to up to 2 hours of search time and 100 pages of photocopies (or an equivalent volume) for free. See 43 C.F.R. § 2.39. Once you have identified records to be searched for, we will attempt to conduct that search up to the \$50 you have agreed to pay. However, if after taking into consideration your fee category entitlements, our processing costs are less than \$50.00, we will not bill you because the cost of collection would be greater than the fee collected. See 43 C.F.R. § 2.37(g).

### **Agreement to Pay Fees Absent, Insufficient or Unclear—43 C.F.R. § 2.6, .51**

Once you have identified records for this office to search, our regulations require that your request must explicitly state that you will pay all fees associated with processing the request, that you will pay fees up to a specified amount. If we anticipate that the fees for processing the request will exceed the 2 hour search time and possibly the 100 page that we normally allot on most incoming requests therefore, we will cease processing your request and make contact with you as to how to proceed. If you wish to proceed past the \$50 fee you have agreed to pay, you will be charged .15 cents per page for standard-size paper. Search and Review Fees are as follows:

Clerical Staff (GS-7 and below): \$6 per 15 minutes, \$24 per hour

Professional Staff (GS-8 to GS-12): 10.75 per 15 minutes, \$43, per hour

Managerial Staff (GS-13 and above): \$15.50 per 15 minutes, \$62 per hour.

At that time, we will check with you to see if you wish to pursue your request. At which time you will need provide an agreement that you will pay, for any charges or any charges up to a certain amount.

According to our regulations, if we do not receive your written response clarifying these points within 20 workdays from the date of this letter, we will presume that you are no longer interested in pursuing your request, we will not be able to comply with your request, and we will close our file on it. See 43 C.F.R. § 2.6(c).

### **Appeal Rights—43 C.F.R. §§ 2.57, .58, .59**

You may appeal this response to the Department’s FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal no later than 90 workdays from the date of this letter if you are not issuing an expedited processing denial; or “as soon as possible after this letter” if you are issuing an expedited processing denial]. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.



Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words:

"FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe BIA OJS's response is in error. You must also include with your appeal copies of all correspondence between you and BIA-OJS concerning your FOIA request, including your original FOIA request and BIA-OJS's response. Failure to include with your appeal all correspondence between you and BIA-OJS will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal.

DOI FOIA/Privacy Act Appeals Office Contact Information

Department of the Interior

Office of the Solicitor

1849 C Street, N.W.

MS-6556 MIB

Washington, DC 20240

Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339

Fax: (202) 208-6677

Email: [FOIA.Appeals@sol.doi.gov](mailto:FOIA.Appeals@sol.doi.gov)

## Conclusion

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See [5 U.S.C. 552\(c\)](#). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

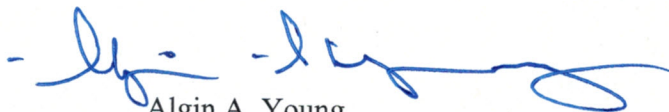
The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road - OGIS  
College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Web: <https://ogis.archives.gov>  
Telephone: 202-741-5770  
Fax: 202-741-5769  
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

If you have any questions about our response to your request, you may contact Cynthia Elia by phone at (651) 851-5431, by email at [Cynthia.Elia@bia.gov](mailto:Cynthia.Elia@bia.gov), or by mail at 2001 Killebrew Drive, Suite 121, Bloomington, MN 55425.

Sincerely,



Algin A. Young  
Associate Director  
Field Operations Directorate  
Bureau of Indian Affairs,  
Office of Justice Services